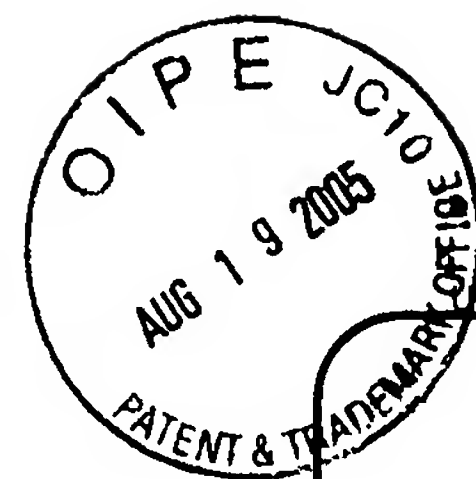


08-22-05

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PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

4

Application Number

10/707,818

Filing Date

January 14, 2004

First Named Inventor

Stern et al

Art Unit

3762

Examiner Name

Mark Bockelman

Attorney Docket Number

2003.15

ENCLOSURES (Check all that apply)

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Reply to Missing Parts/
Incomplete ApplicationReply to Missing Parts
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a
Provisional Application

Power of Attorney, Revocation



Change of Correspondence Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s) _____



Landscape Table on CD



After Allowance Communication to TC

Appeal Communication to Board
of Appeals and InterferencesAppeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please identify
below):

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Northstar Neuroscience, Inc.

Signature

Printed name

Sonya C. Harris

Date

August 26, 2005

Reg. No.

47,263

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

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Sonya C. Harris

Date

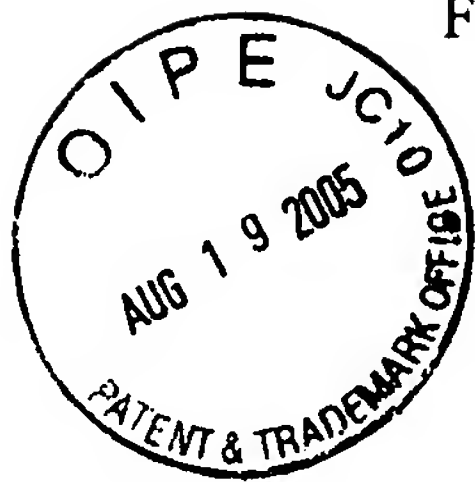
8-19-2005

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Appl. No. 10/707,818

File date 1/14/2004



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/707,818 Confirmation No.: 1817
Applicant : Stern et al
Filed : January 14, 2004
TC/A.U. : 3762
Examiner : Mark Bockelman
Docket No. : 2003.15
Cust. No. : 000037905

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ELECTION RESPONSE

Sir:

This Election is in response to the election requirement of the Official
Action dated July 27, 2005.

The Examiner indicated that the application contains claims directed toward the
following patentably distinct species:

Species I - figures 3a-3c
Species II - figure 3d
Species III - figure 3e
Species IV - figure 3f
Species V - figure 7a
Species VI - figure 7b
Species VII - figure 8
Species VIII - figure 9

Species IX - figure 10
Species X - figure 11A

The Examiner has indicated claims 1 and 13 as generic.

Furthermore, the Examiner has withdrawn claims 21-27 from consideration as being directed toward a non-elected invention. The Examiner stated that claims 21-27, directed toward a method for implanting separable electrodes in the body have been constructively elected by original presentation for prosecution on the merits.

Applicants elect the embodiment of Species I – figures 3a-3c, with traverse, for prosecution on the merits. The Applicants assert that claims 1, 4-13, 15, 17 and 18 read on the elected Species I.

Applicants traverse that the indicated embodiments of Species V, VI and VII are obvious variants of one another.

Applicants further traverse the withdrawal of claims 21-26, under 37 CFR 1.142(b) and MPEP § 821.03, as being directed to a non-elected invention and thereby constructively elected by the Examiner. Claims 21-26 are directed toward a method for implanting a neural electrode assembly within a patient.


These claims should also be prosecuted on the merits along with the elected claims 1,4-13, 15, 17 and 18 of Species I in that they are directed toward a generic method of using the articulated electrode assembly and are not directed toward a patentably distinct invention.

In conclusion, Applicants assert that the following claims read on the elected Species I: 1,4-13,15,17,18 and 21-26.

Appl. No. 10/707,818
File date 1/14/2004

Applicant respectfully requests that an appropriate Official Action be rendered in view of the above.

Respectfully submitted,

By 

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